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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,974	01/07/2004	Emmanuelle Cecile Damay	20320	6438

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

HAND, MELANIE JO

ART UNIT PAPER NUMBER

3761

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/753,974	Applicant(s) DAMAY ET AL.	
	Examiner Melanie J. Hand	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/17/04, 5/23/05</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statements***

The information disclosure statements (IDS) submitted on June 17, 2004 and May 23, 2005 were filed after the mailing date of the Application on January 7, 2004. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

Claim 21 objected to because of the following informalities: it is believed that the phrase "the hydrophilic microfibers comprise the remainder..." is a typographical error, as a proportion of hydrophilic fibers is previously set forth in claim 21. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Fell et al (U.S. Patent Application Publication No. 2004/0253894).

With respect to **Claims 2,9**: Fell teaches an absorbent article 10 comprising absorbent core 16 having a first absorbent layer 24 (cover layer) having a top surface and an opposite bottom surface and comprising a mixture of a first group of fibers 28 comprising cellulosic fibers (hydrophilic) and binder fibers 30 that are moisture-insensitive (hydrophobic). The first group of hydrophilic fibers 28 is present in an amount between 30-95% and the binder (hydrophobic) fibers are present in an amount between 5 to about 40%, therefore it is possible that the hydrophobic fibers would be present in greater amount and thus more prevalent at the top surface of layer 24. Absorbent article 10 also has releasable peel strip 42 (removable backing layer) and liquid-impermeable baffle 14 having a top surface and an opposite bottom surface, disposed between said cover layer 24 and said peel strip 42. Fell teaches an absorbent intake rate for layer 24 in the range of 11-23 seconds.

With respect to **Claim 5**: Strip 42 is taught by fell to be releasable therefore said strip is removably secured to baffle 14.

With respect to **Claims 11,12,13**: Fell teaches that the density of absorbent layer 24 is in the range of 0.06 – 0.4 g/cc.

With respect to **Claim 15**: Fell teaches garment adhesive 40 disposed on the garment-facing surface of baffle 14 for attachment of said article 10 to an undergarment.

With respect to **Claim 16**: Fell teaches that the components 28 (hydrophilic fibers) and superabsorbent particles 32 of stabilized absorbent layer 24 are held together in an integral nonwoven matrix by binder fibers 30.

With respect to **Claim 17**: Fell teaches that layer 24 contains protrusions that define peaks and valleys in the form of channels formed by embossing said pattern into said layer (taught by reference to U.S. Patent No. 4,604,313 to McFarland et al).

With respect to **Claim 18**: Fell teaches elongate hexagonal protrusions defining machine direction peaks and valleys wherein the peak-to-valley depth is 3 mm.

With respect to **Claims 19,20**: Fell teaches a peak-to-peak separation of the elongated machine direction peaks of 2 mm from center to center.

With respect to **Claim 21**: Fell teaches that the first group of fibers 28 (hydrophilic fibers) is present in an amount between 30-95% by weight, and that hydrophobic microfibers comprise the remainder.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3761

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3,4,6-8,10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fell et al (U.S. Patent Application Publication No. 2004/0253894) in view of Cartwright (U.S. Patent Application Publication No. 2005/0079987)

With respect to **Claims 1,7,8**: Fell teaches an absorbent article 10 comprising absorbent core 16 having a first absorbent layer 24 (cover layer) having a top surface and an opposite bottom surface and comprising a mixture of a first group of fibers 28 comprising cellulosic fibers (hydrophilic) and binder fibers 30 that are moisture-insensitive (hydrophobic). The first group of hydrophilic fibers 28 is present in an amount between 30-95% and the binder (hydrophobic) fibers are present in an amount between 5 to about 40%, therefore it is possible that the hydrophobic fibers would be present in greater amount and thus more prevalent at the top surface of layer 24. Absorbent article 10 also has releasable peel strip 42 (removable backing layer) and liquid-impermeable baffle 14 having a top surface and an opposite bottom surface, disposed between said cover layer 24 and said peel strip 42.

Fell does not teach that article 10 has an absorbent capacity in the range set forth in claim 1. Cartwright teaches an absorbent pad having a patterned surface and an absorbent capacity between 5-15 g/g. Cartwright teaches that this pad is suited for absorbing fluids, therefore it would be obvious to one of ordinary skill in the art to modify the absorbent capacity so as to fall within the range set forth in claim 1.

With respect to **Claim 3**: Please see the rejection of claim 1 in addition to the following: Fell teaches an absorbent intake rate for layer 24 in the range of 11-23 seconds.

With respect to **Claims 4,6**: Fell teaches that the top surface of the baffle 14 is secured to the bottom surface of the body side liner 12 but not to the bottom surface of layer 24.

It would be obvious to one of ordinary skill in the art to switch the positions of first and second absorbent layers 24 and 26 taught by Fell such that the top surface of baffle 14 is attached to the bottom surface of layer 24, as both layer 24 and layer 26 are absorbent multilaminate layers that provide identical function. Further the embossed pattern on layer 24 when positioned lower in the article below layer 26 would provide improved leakage protection and act as a storage layer.

With respect to **Claim 10**: Fell does not teach an absorbent intake rate that is less than 10 seconds. Applicant has not established sufficient criticality for such a rate, therefore such a rate is considered herein to be an optimization. It would be obvious to one of ordinary skill in the art to further alter the composition and/or topography of layer 24 such that the intake rate is less than 10 seconds, as such a rapid intake rate is directly correlated to improved absorbent capacity and fluid handling characteristics that prevent an undesirable feeling of wetness on the skin surface of the wearer.

With respect to **Claim 14**: Fell does not teach fold lines. Cartwright teaches an absorbent pad that has stripes disposed thereon that define at least fold lines either in the machine or cross-direction as desired, defining a central area and two side areas, and the pad can be adjusted in size by folding along said lines. Cartwright teaches that this folding allows soiled surfaces to be

folded away, revealing clean absorbent surfaces and also provides reinforced absorbency to the used surface, therefore it would be obvious to one of ordinary skill in the art to dispose folding stripes on the cover layer taught by Fell so as to allow folding to provide reinforced absorbency and customization of the size of said layer by the user for a particular undergarment crotch portion width.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30; alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER  
